

**EXHIBIT B**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BARRY LINTON,

Plaintiff

v.

NEW YORK LIFE INSURANCE AND ANNUITY  
CORPORATION,

Defendant.

: C.A. No. 04-11362-RWZ

**AFFIDAVIT OF P. ANDY HENDERSON, JR. IN SUPPORT  
OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

Commonwealth of Massachusetts      )  
County of Suffolk                  ) ss.

P. Andy Henderson, Jr., upon oath, depose and state as follows:

1.     My name is P. Andy Henderson, Jr. and I am an associate in the law firm of Looney & Grossman LLP, 101 Arch Street, Boston, Massachusetts 02110.

2.     Attached hereto as **Exhibit 1** are copies of pages of the plaintiff Barry Linton's deposition that was taken on October 13, 2005 by Ropes & Gray LLP, counsel for the defendant New York Life in this action.

3.     Attached hereto as **Exhibit 2** are copies of pages of the New York Life agent Paul Redfearn's deposition that was taken on October 7, 2005, by Looney & Grossman LLP counsel for the Plaintiff in this action.

4.     Attached hereto as **Exhibit 3** are copies of pages of the Defendant's response to Plaintiff's First Set of Interrogatories.

5. Attached hereto as **Exhibit 4** are copies of pages of JoAnn Lepke's deposition that was taken on December 5, 2005 by Ropes & Gray, counsel for the Defendant in this action.

6. Attached hereto as **Exhibit 5** are copies of pages from the New York Life Variable Universal Life Policy in this action.

7. Attached hereto as **Exhibit 6** are copies of pages of the 1999 Prospectus for the New York Life Variable Universal Life Policy in this action.

8. Attached hereto as **Exhibit 7** are copies of pages of the New York Life 30(b)(6) designee, John Hess, deposition that was taken on November 29, 2005 by Looney & Grossman LLP, counsel for the Plaintiff in this action.

9. Attached hereto as **Exhibit 8** is a copy of a letter from Barry Linton to New York Life, dated June 11, 1999.

10. Attached hereto as **Exhibit 9** is a copy of a letter from New York Life to Barry Linton, dated April 20, 1999.

11. Attached hereto as **Exhibit 10** are copies of Defendant's response to Plaintiff's First Request for Admissions.

12. Attached hereto as **Exhibit 11** is a copy of a letter from New York Life to Barry Linton, dated June 13, 2003.

13. Attached hereto as **Exhibit 12** are copies of pages of the 2003 Prospectus for the New York Life Variable Universal Life Policy in this action.

14. Attached hereto as **Exhibit 13** is a copy of a letter from Barry Linton to New York Life, dated June 19, 2003.

15. Attached hereto as **Exhibit 14** is a copy of a letter from New York Life to Barry Linton, dated, July 9, 2003.

16. Attached hereto as **Exhibit 15** is a copy of a letter from New York Life to Barry Linton, dated June 22, 1999.

17. Attached hereto as **Exhibit 16** is a copy of a letter from Paul Redfearn to New York Life dated October 17, 2003.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 13, 2006.

/s/ P. Andy Henderson  
P. Andy Henderson, Jr.